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EXAMINER

ROSEN, NICHOLAS D

ART UNIT PAPER NUMBER

3625

DATE MAILED: 12/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/914,660

Applicant(s)

ARGANBRIGHT ET AL.

Examiner

Nicholas D. Rosen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 17, 18, 20, 21, 24, 41-44, 55, 56, 58, 60-65, 70-72, 77, 81-84, 86-90, 96, 106 and 107 is/are rejected.
- 7) ☒ Claim(s) 66-69 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Continuation of Disposition of Claims: Claims pending in the application are 1-6,17,18,20,21,24,41-44,55-56,58,60-72,77,81-84,86-90,96,106 and 107.

DETAILED ACTION

Claims 1-6, 17, 18, 20, 21, 24, 41-44, 55, 56, 58, 60-72, 77, 81-84, 86-90, 96, 106, and 107 have been examined.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract is objected to because it is not on a separate sheet of paper.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

Claims 3, 4, 5, 6, 17, 18, 21, 24, 82 (two occurrences), 83 (two occurrences), 84, and 96 are objected to because of the following informalities: In each of claims 3, 4, 5,

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6 (three occurrences), 17, 18, 21, 24, 82, 83, and 96 (three occurrences), "Client, Member, Member Plus, and IBO" should apparently be "Client, Member, Member Plus, or IBO". In claim 84, "Clients, Members, Members Plus, and IBO's" might be more appropriate. Appropriate correction is required.

Claims 72 and 77 are objected to because of the following informalities: In claim 72, "a income options page web file" should be "an income options page web file". Appropriate correction is required.

Claim 87 is objected to because of the following informalities: "Client, Member, Member Plus, and IBO" should be, "Clients, Members, Members Plus, and IBO's." Appropriate correction is required.

Claim 106 is objected to because of the following informalities: In the nineteenth and twenty-first lines of claim 106, references are made to assigning "a rewards value" and "a redemption value," respectively, to "the marketing system products and services." This should apparently be "to each of the marketing systems products and services." Appropriate correction is required.

Claim 107 is objected to because of the following informalities: In the twentieth and twenty-third lines of claim 107, references are made to assigning "a rewards value" and "a redemption value," respectively, to "the marketing system products and services." This should apparently be "to each of the marketing systems products and services." Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 96 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. An on-line prepaid postage label can be useful in returning or exchanging products, but it is unclear how it is to be used in returning or exchanging services as well.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-6, 17, 18, 20, 21, 24, 41-44, 55, 56, 58, 60-65, 70-72, 81-84, 86-90, and 96

Claims 1, 2, 3, 24, 58, 60, 61, 62, 63, 64, 65, 72, 77, 81, 84, 86, 88, and 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shell (EP 0844 577 A2) in view of Gilbert ("Warehouse Clubs Go Head to Head; Expanding on Each Other's Turf") and official notice. As per claim 1, Shell discloses a method for facilitating electronic commerce transactions in a marketing system through a network, the network comprising at least one server computer capable of communicating with a browser system located in a remote client computer, the method comprising: establishing an interactive online registration between a client browser system and the server computer so that an individual may register with the marketing system as a member (Abstract; columns 7-11). Shell does not disclose that the individual may register with the marketing system as a Client, a Member, or a Member Plus, wherein a Client is not eligible to earn compensation and is eligible to buy products at a Client price, wherein a Member is eligible to buy products at a Client price and not eligible to earn compensation, and wherein a Member Plus is eligible to buy products at a Member Plus price, and wherein a Member plus qualifies to earn compensation by satisfying a sales qualification level, and thereby qualifying as an IBO, wherein each IBO is eligible to buy products at an IBO price and is eligible to earn compensation. However, Gilbert teaches different tiers of membership paying different prices, at least one tier consisting of businesses reselling merchandise (see especially five paragraphs beginning from,

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"Who are these warehouse club customers?"), and official notice is taken that it is well known for members of multilevel marketing organizations to receive compensation (commissions). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for an individual may register with the marketing system as a Client, a Member, or a Member Plus, with corresponding privileges, for the stated advantage of cementing the relationship between such a business and its members, and the obvious advantages of offering terms profitable to different potential members, and to the business running the server, and providing incentives to engage in increased business.

Shell does not expressly disclose providing a plurality of web files operatively connected to a web site associated with the marketing system, but Shell discloses marketing over a computer network, and official notice is taken that it is well known for marketing over a network to involve a web site with a plurality of web files operatively coupled to it, and to allow access to products and services via at least one of the web files (e.g., where the web files correspond to web pages of a catalog of products and services). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to provide a plurality of web files operatively connected to a web site associated with the marketing system, and to allow access to products and services via at least one of the plurality of web files, for the obvious advantage of conveniently enabling members of various classes to purchase goods and services, thereby making profits for the marketing system.

As per claim 2, as above, official notice is taken that it is well known for web files to be shopping page web files, in that web pages are often shopping web pages. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for at least one of the plurality of web files to be a shopping page web file, for the obvious advantages of enabling on-line shopping.

As per claim 3, Shell does not expressly disclose allowing a member to purchase marketing system products and services directly from a marketing company associated with the marketing system, at least if one interprets that as a marketing company that runs the server, etc., but official notice is taken that it is well known to allow people to purchase products and services directly from a marketing company running at least one server. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to allow members (of various classes) to purchase marketing system products and services directly from a marketing company associated with the marketing system, for the obvious advantage of profiting from the sale of such products and services.

As per claim 24, Shell discloses allowing a member to purchase marketing system products and services from a vendor partner associated with the marketing system (Abstract; Summary on columns 2 and 3; and columns 10-12). Shell does not expressly disclose allowing a member to purchase marketing system products and services directly from a marketing company associated with the marketing system, at least if one interprets that as a marketing company that runs the server, etc., but official

notice is taken that it is well known to allow people to purchase products and services directly from a marketing company running at least one server. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to allow members (of various classes) to purchase marketing system products and services directly from a marketing company associated with the marketing system, for the obvious advantage of profiting from the sale of such products and services.

As per claim 58, Shell does not expressly disclose that at least one of the plurality of web files is an office web page, wherein the office web page file is accessible only by each IBO, but official notice is taken that it is well known to make a file or web page accessible only to a class of authorized persons. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have at least one of the plurality of web files be an office web page accessible only by each IBO, for the obvious advantage of keeping confidential information, or information which it might harm the business to have generally known, confined to authorized persons.

As per claim 60, Shell discloses establishing a personal group associated with a first member, the personal group comprising at least one individual who is another member (e.g., column 1, lines 27-42).

As per claim 61, Shell discloses creating an identifier associating at least one individual with a first member higher on the multi-level marketing hierarchy (column 8, lines 19-25); and storing this, presumably on a server (column 8, lines 19-36).

As per claim 62, Shell discloses providing payments to those high on the multi-level marketing hierarchy (column 1, lines 27-42; columns 11 and 12), which necessarily implies providing at least some information relating to sales of marketing system products and services by the personal group. Shell does not expressly disclose providing to the first IBO information relating to sales of marketing system products and services to the personal group, but in the case of sales of marketing system products and services to the personal group by the IBO itself, information would be provided.

As per claim 63, Shell discloses providing to a member information relating to sales of products and services by that member (column 5, lines 20-55; note references to validating and authorizing, which imply that information to be validated has been provided); and providing to a member information relating to sales of products and services by that member (column 1, lines 27-42; column 6, lines 26-42).

As per claim 64, Shell discloses establishing a line of sponsorship, including at least three members (e.g., column 1, lines 27-42).

As per claim 65, Shell discloses providing payments to those high on the multi-level marketing hierarchy (column 1, lines 27-42; columns 11 and 12), which necessarily implies providing at least some market system information relating to those in the personal group of seller high on the pyramid. Shell does not expressly disclose providing to those high on the multi-level marketing hierarchy personal information relating to those below them, but official notice is taken that it is well known to provide people with personal information regarding their business partners and subordinates. Hence, it would have been obvious to one of ordinary skill in the art of electronic

commerce at the time of applicant's invention to provide to the first IBO personal information relating to the second and third IBO's, for such obvious advantages as enabling the first IBO to contact the second and third IBO's to discuss business, to encourage them to increase sales, to determine who is selling well, and supply appropriate awards, etc.

As per claim 72, Shell does not expressly disclose that at least one of the plurality of web files is an income options page web file, wherein the income options page web file comprises an interactive presentation of information relating to the marketing system, but official notice is taken that web pages presenting information interactively are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for at least one of the plurality of web files to be an income options page web file, the income options page web file comprising an interactive presentation of information relating to the marketing system, for the obvious advantage of presenting information interactively, so as to answer a visitor's questions, or present data appropriate to his circumstances.

As per claim 77, Shell does not disclose presenting a series of dialog boxes to a visitor, and receiving from the visitor an income, a number of customers, a sales figure, and a sponsor group number via ones of the dialog boxes, wherein the sponsor group number represents a number of individuals to be sponsored by the visitor, but official notice is taken that it is well known present dialog boxes on web pages, and receive information from visitors via such dialog boxes. Official notice is further taken that it is well known to solicit from potential participants in multilevel marketing information on

such points as what incomes they would like to earn, how many individuals they might sponsor further down the chain, etc. (Examiner is in a position to be aware of this, having once attended an Amway presentation where such questions were asked, and information about estimated potential earnings supplied in response.) Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to automate known multilevel marketing salesmanship as recited in the claim.

As per claim 81, Shell does not disclose that at least one of the plurality of web files is a member services web page file, but official notice is taken that member services web pages are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for at least one of the plurality of web files to be a member services web page file, for the obvious advantages of providing information about services available to members, and encouraging members or potential members to join, make purchases, provide information, etc.

As per claim 84, Shell does not disclose establishing a customer service web page file, wherein the customer service web page file is accessible to registered Clients, Members, Members Plus, and IBO's, and to non-registered visitors to the web site, but official notice is taken that customer service web pages, accessible to any visitors to a web site, and corresponding files, are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to establish a customer service web page file, wherein the customer service

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web page file would be accessible to registered Clients, Members, Members Plus, and IBO's, and to non-registered visitors to the web site, for the obvious advantage of providing useful information, likely to result in sales, or in the resolution of difficulties, to web site visitors.

As per claim 86, Shell does not disclose that only a registered IBO has access to all marketing products and services, but official notice is taken that it is well known to restrict information on web sites so that registration is required, or different levels of access provided to different classes of users. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for only a registered IBO to have access to all marketing products and services, for the obvious advantage of encouraging members to work and sell their way to the level of IBO.

As per claim 88, Shell discloses that a registered member, of whatever type, may purchase any marketing system product or service, and discloses use of a Product Reference ID as known (column 8). Shell does not expressly disclose that the Product Reference ID is a number, but official notice is taken that the use of numbers for identification is well known, and in any case, to be transmitted over a computer network, the Product Reference ID would have to be expressible as a binary number. Hence, it is implicit that a member may purchase any marketing system product or service if an identification number associated with the product or service is known.

As per claim 89, Shell does not disclose assigning the Client, Member, or Member Plus, as such, to an IBO, but does disclose assigning each seller to a next

level seller (columns 7 and 8), making it obvious to assign the Client, Member, or Member Plus to an IBO, to arrange commissions and fees as disclosed.

Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shell (EP 0844 577 A2), Gilbert ("Warehouse Clubs Go Head to Head; Expanding on Each Other's Turf"), and official notice as applied to claim 1 above, and further in view of Dias et al. (U.S. Patent 6,170,017). As per claim 20, Shell does not expressly disclose that at least one of a plurality of web files is a vendor partner web file, but it is well known for virtual shopping malls to comprise a plurality of vendor partner websites or webpages, and therefore web files, as taught, for example, by Dias (column 1, lines 20-40). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for at least one of the plurality of web files to be a vendor partner web file, for the obvious advantage of enabling persons to make purchases from vendor partners.

As per claim 21, Shell discloses allowing a member to purchase marketing system products and services from a vendor partner associated with the marketing system (Abstract; Summary on columns 2 and 3; and columns 10-12).

Claims 41, 42, 43, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shell (EP 0844 577 A2), Gilbert ("Warehouse Clubs Go Head to Head; Expanding on Each Other's Turf"), and official notice as applied to claim 1 above, and further in view of Ikeda et al. (U.S. Patent 5,937,391). As per claim 41, Shell does not disclose providing on-line access to the plurality of marketing system products and services to a registered Member via an on-line redemption form associated with one of

the plurality of web files, and allowing the registered Member to submit a rewards exchange request for marketing system products and services via the online redemption form, but Ikeda teaches doing these things (Abstract; column 2, lines 10-67; column 6, lines 29-38; column 9, line 46, through column 10, line 30; column 10, line 55, through column 11, line 9). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to allow registered members to submit reward exchange requests, etc., as recited, for the stated advantage of activating sales and realizing an attractive online mall crowded with customers.

As per claim 42, Ikeda teaches at least one server (e.g., column 4, lines 41-60), but does not teach accumulating a list of the products and services selected for redemption by the member. However, official notice is taken that it is well known to accumulate lists of purchases and other activities by customers, in electronic commerce in particular. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to accumulate a list of the products and services selected for redemption by the member, for the obvious advantages of arranging for the delivery of those products and services, and directing future marketing efforts to the member and other members with similar tastes, etc.

As per claim 43, Ikeda discloses the use of one or more servers (e.g., column 2, lines 41-60), making receiving products or services selected for redemption at the server inherent. Ikeda does not disclose at the server computer, adding to the list each marketing system product and service received, but given the list and the use of a server, adding items to the list at the server follows as an obvious and nearly inherent

way of building and maintaining the list. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to receive selected products and add them to the list, at the server computer, for the obvious advantage of effectively maintaining the list of claim 42.

As per claim 56, Ikeda teaches processing an order containing marketing system products or services selected for redemption, wherein the order is initiated via an on-line form (Figure 13; column 2, lines 10-67; column 6, lines 29-38; column 9, line 46, through column 10, line 30; column 10, line 55, through column 11, line 9). Ikeda does not expressly teach sending an electronic notification to the registered member subsequent to processing the order (although Ikeda refers to sending electronic notifications to customers in a somewhat different context, column 8, lines 37-47), but official notice is taken that it is well known to send electronic notifications to customers subsequent to processing orders. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to process the order, for the stated advantage of gaining customers by issuing points and redeeming them for merchandise; and to send electronic notification, for the obvious advantage of assuring customers that their orders had been processed, providing a more satisfactory shopping experience.

Claims 44 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shell (EP 0844 577 A2), Gilbert ("Warehouse Clubs Go Head to Head; Expanding on Each Other's Turf"), official notice, and Ikeda (U.S. Patent 5,937,391) as applied to claim 43 above, and further in view of Bezos et al. (U.S. Patent 6,029,141). As per

claim 44, Shell does not disclose maintaining the list of marketing system products and services selected for redemption for a holding period. Bezos is not explicit about establishing a session when a registered member accesses the web site and terminating the session when the registered member terminates access to the web site, but this is inherent from the disclosure of sessions at a web site. Bezos teaches at a server computer, maintaining a list of marketing system products and services selected for purchase via a shopping page web file for a holding period that may begin from the termination of the session with a web site (column 4, lines 48-65; column 13, lines 30-54; column 14, lines 52-61). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to maintain at the server computer the list of marketing system products and services selected for redemption for a holding period that begins when the member terminates the session with the web site, for the stated advantage of allowing consumers to conduct extended shopping sessions, and the obvious advantage of keeping records useful if any question should arise as to whether a particular product had been sent, etc.

As per claim 55, Bezos discloses deleting each of the products and services from the updated list subsequent to expiration of a holding period (column 14, lines 52-61). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to delete each of the products and services from the updated list subsequent to expiration of the holding period, for the obvious advantages of avoiding the expense of maintaining unnecessary data, and being able to assure customers of privacy.

Claim 87 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shell (EP 0844 577 A2), Gilbert ("Warehouse Clubs Go Head to Head; Expanding on Each Other's Turf"), and official notice as applied to claim 1 above, and further in view of Scroggie et al. (U.S. Patent Application Publication 2003/0139969). Shell does not disclose that the allowing step is carried out so that a different group of marketing products and services is presented to each of the registered Clients, Members, Members Plus, and IBO's, but it is well known to present different products and services to different users of an e-commerce site, as taught by Scroggie (paragraph 33). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the allowing step to be carried out so that a different group of marketing products and services would be presented to each of the registered Clients, Members, Members Plus, and IBO's, for the obvious advantage of presenting members of various types with products and services that they are likely to purchase, rather than products and services of no interest to them.

Claims 4, 5, 6, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shell (EP 0844 577 A2), Gilbert ("Warehouse Clubs Go Head to Head; Expanding on Each Other's Turf"), and official notice as applied to claim 3 above, and further in view of Bezos et al. (U.S. Patent 6,029,141). As per claim 4, Shell does not disclose accumulating a list of the marketing system products and services selected for purchase by the Client, Member, Member Plus, or IBO via the shopping page web file, wherein the list is maintained at the server computer, but Bezos teaches accumulating such a list, and maintaining at a server computer (column 2, lines 48-65;

column 4, lines 30-39, etc.; column 13, lines 30-42). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to accumulate a list of the marketing system products and services selected for purchase by the Client, Member, Member Plus, or IBO via the shopping page web file, wherein the list would be maintained at the server computer, for the stated advantage of allowing consumers to conduct extended shopping sessions.

As per claim 5, Bezos discloses receiving at the server system at least one of the marketing system products and services selected for purchase from a shopping page web file; and at the server computer, adding to the list each marketing system product or service received, accumulating an updated list of the products and services selected for purchase (column 7, line 52, through column 8, line 2; column 12, lines 43-52). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention do this, for the obvious advantage of maintaining updated shopping lists to let consumers conduct extended shopping sessions.

As per claim 6, Bezos is not explicit about establishing a session when a registered member accesses the web site and terminating the session when the registered member terminates access to the web site, but this is inherent from the disclosure of sessions at a web site. Bezos teaches at a server computer, maintaining the list of marketing system products and services selected for purchase via a shopping page web file for a holding period that may begin from the termination of the session with a web site (column 4, lines 48-65; column 13, lines 30-54; column 14, lines 52-61).

Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention do this, for the stated advantage of allowing consumers to conduct extended shopping sessions.

As per claim 17, Bezos discloses deleting each of the products and services from the updated list subsequent to expiration of a holding period (column 14, lines 52-61).

Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to delete each of the products and services from the updated list subsequent to expiration of the holding period, for the obvious advantages of avoiding the expense of maintaining unnecessary data, and being able to assure customers of privacy.

As per claim 18, Bezos discloses processing an order that contains an updated list of marketing products and services selected for purchase, wherein the order is initiated via an on-line order form by a registered member (column 15, lines 28-50). Bezos does not disclose sending an electronic notification to the registered member subsequent to processing the order, but official notice is taken that it is well known to send electronic notifications to customers subsequent to processing orders. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to process the order, for the obvious advantage of profiting from selling the products or services; and to send electronic notification, for the obvious advantage of assuring customers that their orders had been processed, providing a more satisfactory shopping experience.

Claim 96 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shell (EP 0844 577 A2), Gilbert ("Warehouse Clubs Go Head to Head; Expanding on Each Other's Turf"), and official notice as applied to claim 3 above, and further in view of Jackson ("A Sticky End for Stamps?"). Shell does not disclose providing an on-line form to the registered member that allows the registered member to return or exchange products and services purchased through the marketing system, but official notice is taken that providing for returns or exchanges is well known. Shell does not disclose allowing the registered member to enter a plurality of information relating to the products and services on the on-line form, but official notice is taken that allowing people to enter information on on-line forms is well known. Shell does not disclose providing a preformatted form containing the information relating to the products and services, wherein the form can be printed and returned by the registered member with the products and services, but official notice is taken that it is well known to print forms, and the information contained is merely non-functional descriptive material, to which patentable weight is not given. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to provide an on-line form, allow members to enter information, and print the forms, for the obvious advantage of conveniently arranging product or service returns or exchanges.

Shell does not disclose providing an on-line prepaid postage label, wherein the postage label can be printed and used to return the products and services, but Jackson teaches this (see entire brief article). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to

provide an on-line prepaid postage label, wherein the postage label can be printed and used to return the products and services, for the stated advantage of saving people the trouble of licking stamps or buying a special franking machine, and the obvious advantage of producing satisfied customers by paying for the postage involved in returning a product.

Claims 70 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shell (EP 0844 577 A2), Gilbert ("Warehouse Clubs Go Head to Head; Expanding on Each Other's Turf"), and official notice as applied to claim 60 above, and further in view of the anonymous article, "Applied Intelysis: using the Telephone for Videotex-Type Applications," hereinafter "Applied Intelysis." As per claim 70, Shell does not disclose establishing a plurality of escalating levels, wherein the escalating levels are a function of sales of marketing system products and services, but "Applied Intelysis" implies this (two paragraphs beginning from "AIC recently developed a sophisticated system"). "Applied Intelysis" further teaches providing an interactive calculation method allowing a salesperson or other user to determine a quantity of sales of marketing system products and services needed to reach one of the plurality of escalating levels (ibid.). "Applied Intelysis" does not disclose providing the interactive calculation method using a web page file, but official notice is taken that interactive calculations using web pages are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to provide the interactive calculation method using an office file web page, for the obvious advantage of applying a widespread method of communicating information more convenient for transmitting

many kinds of information than the telephone keypad and spoken word transmission disclosed in "Applied Intelysis."

As per claim 71, "Applied Intelysis" does not disclose that the interactive calculation method allows a first IBO to determine a quantity of sales of marketing system products and services needed by one of the at least one individual of the personal group to reach one of the plurality of escalating levels, but official notice is taken that it is well known for managers, etc., to have access to information on the productivity, sales, etc., of their subordinates. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the interactive calculation method allow the first IBO to determine a quantity of sales of marketing system products and services needed by one of the at least one individual of the personal group to reach one of the plurality of escalating levels, for the obvious advantage of enabling the IBO to encourage and assist individuals to reach a higher level and receive corresponding awards, thus increasing sales.

Claims 82 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shell (EP 0844 577 A2), Gilbert ("Warehouse Clubs Go Head to Head; Expanding on Each Other's Turf"), and official notice as applied to claim 81 above, and further in view of Scroggie et al. (U.S. Patent Application Publication 2003/0139969). As per claim 82, Shell discloses allowing members to enter personal information, which is then stored (column 5, under "Purchase of a Product:"; column 7, under "Seller (Payee) Registration Data:"), making an appropriate on-line form for entering the data obvious. Shell does not disclose customizing a layout of the plurality of web files based on the

personal information, but it is well known to customize the layout of web pages based on personal information, as taught by Scroggie (paragraph 33). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention, for the obvious advantage of presenting members of various types with products and services that they are likely to purchase, rather than products and services of no interest to them.

As per claim 83, Shell discloses establishing a plurality of marketing system products and services based on the personal information supplied by the registered members; and presenting the plurality of marketing system products and services to the registered members (Abstract; columns 3-16).

Claim 90 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shell (EP 0844 577 A2), Gilbert ("Warehouse Clubs Go Head to Head; Expanding on Each Other's Turf"), and official notice as applied to claim 89 above, and further in view of Walker et al. (U.S. Patent 6,108,639). Shell does not disclose that the Client, Member, or Member Plus is assigned to an IBO based on a geographic proximity of the IBO to the Client, Member, or Member Plus, but Walker teaches assigning a buyer to a seller based on geographical proximity (column 5, lines 53-57). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to assign a Client, Member, or Member Plus to an IBO based on a geographic proximity of the IBO to the Client, Member, or Member Plus, for the obvious advantage of allowing easy and cheap shipment of goods between the IBO and the Client, Member, or Member Plus.

Claims 106 and 107

Claim 106 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shell (EP 0844 577 A2) in view of Gilbert ("Warehouse Clubs Go Head to Head; Expanding on Each Other's Turf"), Ikeda et al. (U.S. Patent 5,937,391), and official notice. Shell discloses a computer system for facilitating an on-line shopping and rewards program, including a computer system accessible for on-line interactive communication. Shell does not expressly disclose that the computer system comprises a memory device and a processor, but these are held to be inherent from the disclosed procedures, which could not be carried out without a processor and a memory. Shell discloses establishing an interactive online registration process so that an individual may register with the marketing system as a member (Abstract; columns 7-11). Shell does not disclose that the individual may register with the marketing system as a Client, a Member, or a Member Plus, wherein a Client is not eligible to earn compensation and is eligible to buy products at a Client price, wherein a Member is eligible to buy products at a Client price and not eligible to earn compensation, and wherein a Member Plus is eligible to buy products at a Member Plus price, and wherein a Member plus qualifies to earn compensation by satisfying a sales qualification level, and thereby qualifying as an IBO, wherein each IBO is eligible to buy products at an IBO price and is eligible to earn compensation. However, Gilbert teaches different tiers of membership paying different prices, at least one tier consisting of businesses reselling merchandise (see especially five paragraphs beginning from, "Who are these warehouse club customers?"), and official notice is taken that it is well known for members of multilevel marketing organizations to receive compensation (commissions). Hence, it would have been

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obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for an individual may register with the marketing system as a Client, a Member, or a Member Plus, with corresponding privileges, for the stated advantage of cementing the relationship between such a business and its members, and the obvious advantages of offering terms profitable to different potential members, and to the business running the server, and providing incentives to engage in increased business.

Shell discloses maintaining a catalog comprising marketing system products and services; and providing on-line access to the catalog to registered members (column 2, line 15, through column 3, line 15). Shell is not fully explicit about allowing registered members to submit an order for marketing system products and services via an on-line order form, but official notice is taken that on-line order forms are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to allow registered members to submit their orders via an on-line entry form, the obvious advantage of enabling remote computerized orders to be handled by standard means likely to be familiar to many users.

Shell does not disclose maintaining a rewards database for storing reward points corresponding to members, assigning a rewards value to each of the marketing system products and services, and storing the rewards value in the catalog; assigning a redemption value to each of the marketing system products and services, and storing the redemption value in the catalog; providing on-line access to the catalog to a registered member via an on-line redemption form; allowing a member to submit a

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rewards exchange request for marketing system products and services via the on-line redemption form; and subtracting from the rewards database a redemption value corresponding to the chosen products and services; but Ikeda teaches doing these things (Abstract; column 2, lines 10-67; column 6, lines 29-38; column 9, line 46, through column 10, line 30; column 10, line 55, through column 11, line 9). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to allow registered members to maintain a rewards database, etc., as recited, for the stated advantage of activating sales and realizing an attractive online mall crowded with customers.

Claim 107 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shell (EP 0844 577 A2) in view of Gilbert ("Warehouse Clubs Go Head to Head; Expanding on Each Other's Turf"), Ikeda et al. (U.S. Patent 5,937,391), and official notice. Claim 107 is essentially parallel to claim 106, and rejected on essentially the same grounds. Insofar as the prior art relied on is not explicit about a computer program product comprising a computer usable medium having computer program logic recorded thereon, official notice is taken that such computer usable media are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to use such a computer usable medium, for the obvious advantage of enabling the computer to carry out its functions.

Allowable Subject Matter

Claims 66 and 67 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record, Shell (EP 0 844 577 A2) discloses various limitations of claims 1 and 60, while others are considered obvious in view of Gilbert ("Warehouse Clubs Go Head to Head; Expanding on Each Other's Turf") and of the knowledge generally available to those of ordinary skill in the art of electronic commerce, as set forth above. The anonymous article, "Applied Intelysis: Using the Telephone for Videotex-type Applications" discloses awarding points for products and services sold by an individual. Ikeda et al. (U.S. Patent 5,937,391) disclose awarding points for products and service sold to (purchased by) an individual. Moreover, it is of course well known to perform arithmetic. However, neither Shell nor any other prior art of record discloses totaling a plurality of individual point values assigned to the marketing system products and services sold to the at least one individual of the personal group and by the at least one individual of the personal group to achieve a total individual business volume; and allowing an IBO to view the total individual point value and individual business volume via the office page web file. In particular, no prior art of record discloses doing this in the context of a multi-level marketing system, or provides motivation to make the combination of various disparate prior art references to arrive at the claimed invention.

Claims 68 and 69 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record, Shell (EP 0 844 577 A2) discloses various limitations of claims 1 and 60, while others are considered obvious in view of Gilbert ("Warehouse Clubs Go Head to Head; Expanding on Each Other's Turf") and of the knowledge generally available to those of ordinary skill in the art of electronic commerce, as set forth above. The anonymous article, "Applied Intelysis: Using the Telephone for Videotex-type Applications" discloses awarding points for products and services sold by an individual. Ikeda et al. (U.S. Patent 5,937,391) disclose awarding points for products and service sold to (purchased by) an individual. Moreover, it is of course well known to perform arithmetic. However, neither Shell nor any other prior art of record discloses totaling a plurality of individual point values assigned to the marketing system products and services sold to the personal group and by the personal group to achieve a total group point value; and allowing an IBO to view the total group point value and group business volume via the office page web file. In particular, no prior art of record discloses doing this in the context of a multi-level marketing system, or provides motivation to make the combination of various disparate prior art references to arrive at the claimed invention.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kanter (U.S. Patent 5,537,314) discloses a referral recognition system for an incentive award program. Graber et al. (U.S. Patent 5,812,769) disclose a method and apparatus for redirecting a user to a new location on the World Wide Web using relative universal resource locators. Storey (U.S. Patent 6,009,412) discloses a fully integrated on-line interactive frequency and award redemption program. Walker et al. (U.S. Patent 6,049,778) disclose a method and apparatus for administering a reward program. Masi et al. (U.S. Patent 6,105,001) disclose a non-cash transaction incentive and commission distribution system. Teacherson (U.S. Patent 6,578,010) discloses a multi-node network marketing computer system.

McDonald et al. (WO 96/36926 A1) disclose multilevel marketing systems.

Johns ("State of the Industry: Marketing Strategies Come to Warehouse Clubs"); Karathanos ("Sudden Lost Meaning: A Catastrophe?"); the anonymous articles, "NET LNNX: The Majority Owned Subsidiary of NET LNNX Inc., Communications/USA Has Filed a Listing Application with the Pacific Stock Exchange and the SEC," and "Health Club Network Launch Results New Recruits 300% of July Levels and Sales Double;" Fairchild, ("Internet Marketing Idea Is Linking Buyers and Sellers with Products"); Eskow ("Amway of the Web"); the anonymous articles, "VHS Network: VHS Network Beats Excel and Amway to the Punch," "Costco, AmeriNet Expand Program," and "Amway Asia Pacific Hit by Direct Selling Ban in China;" Britt ("No Easy Money"); Ostroff ("Amway Slated to Resume Its Operations in China"); Svaldi, "Firm's Failure Ripples;"

and Hochstein ("Warehouse Retailer Costco Offering Home Loans") disclose various aspects of multi-level marketing and membership organizations, including commercial membership organizations with different levels of membership.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen whose telephone number is 703-305-0753. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Non-official/draft communications can be faxed to the examiner at 703-746-5574.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas D. Rosen
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PRIMARY EXAMINER
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